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INDIGENOUS ISSUES

Written statement* submitted by Survival International, a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Acute Threats to Isolated Tribal Peoples

Summary:

Isolated tribal peoples around the world are facing potentially devastating threats to their lives and livelihoods from the invasion of their land. In particular, Survival wishes to highlight cases in Peru, Brazil, India and Paraguay, where governments are standing by whilst the peoples' lives are put in jeopardy. Given that all four governments are well aware of the threats to these peoples, and their obligations are equally well known, failure to avert a catastrophe would constitute a crime under the terms of the Genocide Convention.

The dangers that uncontrolled contact with outsiders brings to isolated tribal communities are well known. The invasion and destruction of their lands mean the loss of their livelihood and way of life. Outsiders often wrongly consider nomadic peoples to be primitive. This can lead to violence, to equally destructive efforts to settle them, and to epidemics of fatal diseases.

Uncontacted tribes are particularly vulnerable because they have not built up resistance to diseases to which outside societies are long accustomed. The introduction of the common cold, flu or other diseases such as measles, can cause an epidemic which wipes out a large proportion of the people. An example of this is the 50 to 100 Yora who died in the 1980s after colonists brought in disease (see below): this represents around half of the Yora group which was contacted at that time.

These primary dangers of contact (violence, new diseases and loss of land and way of life) result in catastrophe for previously uncontacted peoples, and, especially for peoples numbering less than several thousand members, can mean the end to their life as a people.

Two of the five acts defined as constituting genocide under the terms of the 1948 UN Genocide Convention are: 'causing serious bodily or mental harm to members of the group', and 'deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part' (articles 2b & c). Without positive and rapid action for the isolated tribal peoples living within their borders, Brazil, India, Paraguay and Peru are leaving themselves open to the charge of genocide.

These four governments are also ignoring the International Labour Organisation's two conventions concerning indigenous and tribal peoples, ILO 169 and its predecessor 107, although all have ratified at least one of them. Article 14 of ILO 169 states that, 'The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. [. . .] Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect.'

Survival wishes to bring to the Commission's attention four cases where isolated tribal peoples are under particular threat:

1. The Jarawa of the Andaman Islands, India

The Jarawa are thought to number between 200 and 400 people. For hundreds of years they avoided all contact with outsiders and reacted with hostility when anyone tried to encroach on their land.

In their 1991-2021 'Master Plan', the local authorities in the Andaman Islands laid out plans to bring the nomadic Jarawa out of their forest home and settle them in a new, fixed community. In addition, a Public Interest Litigation Case was filed in 1999 against the Indian government by a lawyer. The case also urged the government to forcibly settle the Jarawa. This forced removal and sedentarisation would repeat the terrible mistakes made by British colonial powers with other tribes in the Andaman Islands. The various Great Andamanese tribes numbered 5,000 a century ago; today, only 41 people survive.

After much deliberation the court has issued a temporary order to the local administration to halt any plans to settle the Jarawa. The court has convened an 'expert committee' which must report in March 2002 before a final decision will be reached.

The forcible settlement of the Jarawa would lead to their destruction as a people, in a tragic and unnecessary repetition of history. The key to their survival is for India to recognise their land ownership rights.

2. The Yora and other peoples, Peru

The Peruvian government is poised to permit logging companies to invade the territory of uncontacted Indians. The territory lies to the south-east of the 'Upper Purú Reserved Zone', in the Madre de Dios state. The companies are simultaneously starting logging operations in the area and lobbying the government's forestry department, INRENA, to grant them formal concessions.

The isolated Indians are thought to be members of the Yora, Mashco-Piro and Amahuaca tribes. Other, contacted, Indians in the region have appealed to Survival to raise the issue.

Part of the uncontacted Indians' refuge was invaded in the 1980s by Shell, who were looking for oil. The oil exploration paths subsequently acted as an easy entrance for colonists, who brought with them colds and other diseases. In the ensuing epidemic, between 50 and 100 Yora died in the forest.

The Peruvian government must act decisively, in accordance with ILO 169 (to which it is a signatory), to recognise that the land belongs to the Indians. Logging companies must not be granted concessions on Indian territory. Without this legal protection and practical measures to enforce it, these isolated Indians could die in tragically high numbers.

3. The Ayoreo, Paraguay

The 5,000 Ayoreo are a nomadic people inhabiting the dry, scrubby forest of the Chaco region in Bolivia and Paraguay. Virtually all the Ayoreo in Paraguay have been settled by missionaries. (Some Ayoreo died during the initial stages of contact, from new diseases and a lack of the will to live). There is, however, one group who are still resisting all contact.

Those in the forest have chosen to remain isolated. Indeed, they have on occasion lost their lives resisting being forced into a settled life.

The uncontacted Ayoreo's land is now mostly owned by Paraguayan ranchers, who are pressing the government to be allowed in to clear the forest. Already there have been several cases of bulldozers coming upon recently abandoned Ayoreo camps. Some ranchers are known to be clearing the forest in violation of injunctions stopping all forestry activity. A land claim on behalf of the uncontacted Ayoreo has been sitting in the government's files for years: the

lack of political will to settle it is endangering the Indians' lives.

Paraguay is also a signatory of ILO Convention 169: its inertia in the Ayoreo case is a violation of this law and indeed its own constitution, which also guarantees Indian land ownership.

4. The Awá, Brazil

The Brazilian government has not fulfilled its obligations to many peoples who are at risk. A specific example of this is the Awá in Maranhão state. The Awá Indians are in an increasingly fragile situation as loggers and ranchers establish themselves in the Awá Indigenous Territory and the area's demarcation process is stalled.

The Awá people are one of the last nomadic hunter-gatherer peoples in Brazil. By 1950, after a century and a half of white invasions, violence and new diseases, their population was estimated at 800. Yet they have faced their worst persecution over the past fifty years. In 1979, for example, seven uncontacted Awá died of poisoning when farmers left out a 'gift' of flour laced with ant killer. Today they number less than 400, of whom about 150 are uncontacted. Their habitat continues to be converted into ranch land.

They are widely spread, and often travel between the two indigenous territories, Alto Turiaçu and Carú. These two territories have been demarcated. However, the demarcation of the critical linking area between them, the Awá Indigenous Territory, has been continuously delayed for nearly twenty years. This is in spite of money being available for the process. Indeed, demarcation of this area was a condition of a World Bank loan to the Brazilian government in 1982.

The Brazilian Constitution states that all indigenous territories were to be demarcated by 1993. If the Awá territory is not demarcated soon, it may be too late for the uncontacted Awá.

Survival calls upon the United Nations:

- to press these governments to recognise that tribal peoples are the rightful owners of their land in accordance with the ILO conventions.

- to ensure that swift action is taken to protect these isolated tribal peoples from further invasion and harassment. Where unfulfilled promises of action have been made, these governments should be urged to act.

- to affirm that tribal peoples are dependent on their land for theirlivelihoods, culture and identity, and must be recognised as the owners of these lands if they are to be able to survive and thrive as peoples.